THE HON'BLE SMT. JUSTICE T. MEENA KUMARI

W.P. No. 31843 of 1997

O R D E R:

This writ petition is filed seeking to issue a writ of Mandamus declaring the Proceedings No.01/2(9)/96-NKD dated 29.8.1997 imposing the punishment of postponement of regularization for a period of two years and also the show-cause notice issued by the 3rd rd., in Proceedings No.01/2(9)/96-GPP dated 14.11.1997 as illegal and arbitrary and to grant all consequential benefits.

Heard. The case of the petitioner is that he joined in the respondent-Corporation as a Driver in the year 1993 and his services were regularized w.e.f. 31.7.1997 by an order dated 25.8.1997; while so, the 2nd respondent passed an order dated 29.8.1997 imposing the penalty of postponement of which was received by him on 2.11.1997. It is further stated that the services of the petitioner were regularized with effect from 31.7.1997, but the 3rd respondent issued a notice dated 14.11.1997 stating that the regularization order issued to him will be cancelled as the 2nd respondent passed orders postponing his regularization and the said action of the respondents is illegal and arbitrary.

On the other hand, the respondents filed counter affidavit stating, inter alia, that the petitioner is only a casual employee having no right to the post and he is not an employee within the meaning of the APSRTC Employees (Recruitment) Regulations, APSRTC. Previously also the petitioner was unauthorisedly absent and therefore his annual increment was

deferred for a period of one year without cumulative effect. On 23.5.1996 he drove the bus bearing No. AP9Z on the route Narayankhed – Borancha in a rash and negligent manner and caused a fatal accident resulting in the death of a lady. Though the petitioner could be disengaged even without conducting any enquiry into the said allegation, in order to give him reasonable opportunity to defend himself he was put off from duty, charges were framed against him and he was given opportunity to submit his explanation. The petitioner submitted his explanation dated 29.6.1996. A detailed enquiry was conducted in the presence of the petitioner giving him reasonable opportunity to defend himself. He was examined in his defence. On consideration of the evidence adduced before him, the Enquiry Officer found the petitioner guilty of the charges and submitted his enquiry report and proceedings to the disciplinary authority. Subsequently a show cause notice dated 15.2.1997 was issued to the petitioner along with the enquiry report calling upon him to show cause why the regularization of his service shall not be postponed for a period of two years. The petitioner received it on 15.2.1997 but did not submit his explanation to the show-cause notice. Therefore, the disciplinary authority passed final order dated 29.8.1997 imposing a penalty of postponement of regularization for a period of two years.

From the above it is clear that the petitioner drove the bus in a rash and negligent manner resulting in the death of a lady and therefore charges were framed against him and an enquiry was conducted affording reasonable opportunity to the petitioner and as the charges were proved, following the due procedure the disciplinary authority passed final order imposing a penalty of postponement of regularization for a period of two years. Having

regard to the facts and circumstances, the said punishment cannot be said to be illegal or arbitrary.

There are no merits in this writ petition. It is accordingly dismissed.

T. MEENA KUMARI, J.

Date: 26-09-2007.

MVB.